

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Claimant

Reg. No.: 2009-27540

Issue No.: 3008/1005

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

July 30, 2009

Wayne County DHS (57)

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on July 29, 2009. The Claimant appeared and testified. Ms. Woods, FIM, Ms. Phillips- Hudgens, FIS, and Ms. Eccles ES, appeared on behalf of the Department.

ISSUE

Whether the Department properly closed the claimant's Food Assistance (FAP) and Family Independence Program (FIP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material and substantial evidence on the whole record, finds as material fact:

1. Claimant was a recipient of FAP and FIP benefits.
2. On April 29, 2009 the Department issued a Verification Checklist with a due date of May 11, 2009. (Exhibit 1)

3. Claimant called the Department on May 10, 2009 to request an extension for submitting the requested verifications.
4. The parties disagree as to whether a one or two day extension was given.
5. Claimant was unable to provide the verifications in the time allowed.
6. On May 27, 2009 the Department closed the FAP and FIP benefits case.
7. Claimant requested a hearing on June 16, 2009 to contest the closure of the FAP and FIP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program, formerly known as the Food Stamp ('FS') program, is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations ('CFR'). The Department of Human Services ('DHS'), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual ('PAM'), the Program Eligibility Manual ('PEM'), and the Program Reference Manual ('PRM').

The Family Independence program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq*. The Department of Human services (DHS or Department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependant Children (ADC) program effective October 1, 1996. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference manual (PRM).

The department periodically reevaluates cases to ensure that eligibility for program benefits continues. PAM 210. Clients must cooperate with the local office in determining initial and ongoing eligibility including completion of necessary forms. PAM 105. Under PAM 130 and 210, the department is to allow clients a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information. The department must also help clients who need and request assistance in obtaining verifications, and may extend the time limit, if necessary. PAM 130 and 210. Pursuant to PAM 130, a negative action notice is to be sent when the client indicates refusal to provide a verification or the time period given has elapsed and the client has not made a reasonable effort to provide it. If neither the client nor the department can obtain verification despite a reasonable effort, use the best available information. PAM 130.

In the present case, claimant was an ongoing recipient of FAP and FIP benefits. The department issued the Verification Checklist on April 29, 2009 giving claimant until May 11, 2009 to submit verification of the hours worked, income and self employment expenses for January 2009 to April 2009. (Exhibit 1) Claimant testified that on May 10, 2009, she called the department to request more time because of several unexpected events. Claimant's grandfather passed away on May 8, 2009 and claimant was involved with the funeral preparations, her car had been stolen, and two of her children became ill. Claimant further testified that the keyboard broke on the business computer, which stored the needed information. Claimant testified her worker gave her a one day extension.

Department testified that the Verification Checklist was given to client in person following a prior hearing on April 29, 2009. The department testified that when claimant called to request the extension, the district manager was consulted on how to proceed because of the

department's deadline to respond to the prior hearing. The department representative testified that because the department was under a 10 day deadline from the April 29, 2009 hearing, the district manager said to give the claimant a two day extension to May 13, 2009 then to deny the case if the verifications were not submitted.

This ALJ has reviewed the decision from the April 29, 2009 hearing. Pursuant to the Decision and Order,

(2) If Department did not do so at the conclusion of the April 29, 2009 hearing, it is to contact the Grand River office to ascertain whether it has the requisite employment and/or income verification for it to make a determination as to whether Claimant is required to participate in the WF/JET Program going forward. If not, or in the alternative, the Department shall specifically request the information from Claimant so that it can make the same determination.

In the present case, the department did not give any testimony to indicating they had made any attempts to contact the Grand River office for the needed verifications after the April 29, 2009 hearing. Further, the Decision and Order from the April 29, 2009 hearing was not mailed until May 7, 2009. Under PAM 600, the department has 10 calendar days from the mailing of the Decision and Order to complete the case action and certify implementation. Additionally, policy states that if it is not possible to implement a hearing decision and order within the 10 calendar days, the department is to call the State Office of Administrative Hearings and Rules for advice on how to proceed. PAM 600. Policy does not support the Department's position that no additional time could be given to claimant beyond May 13, 2009 to submit the verifications due to the deadline for responding to the prior hearing.

Department next argued that an extension was granted as required by PAM 130, noting that policy does not specify how long of an extension to give. The department's decision to grant a two day extension from May 11, 2009 to May 13, 2009 was not reasonable. Claimant has

provided documentation of her grandfather's death on May 8, 2009, as well as the dates for the visitation and funeral services on May 15, 2009 and May 16, 2009. (Claimant Exhibit 1) Claimant provided credible testimony that due to her grandfather's death and other unforeseen events, she was not able to provide the verifications to the department by May 13, 2009.

Alternatively, the department argued that claimant failed to call and request a second extension. Claimant testified that after the May 10, 2009 phone conversation with her worker, she believed the department was only granting a one day extension and that no additional time would be granted. Given the department's reasoning for granting the very short extension, claimant did have reason to believe no further extensions would be granted.

Claimant also testified that at the April 29, 2009 hearing, she attempted to provide the department with four years of tax returns as alternative verification of income. Under PEM 400 tax returns are an acceptable source for verification of income. Department only copied the 2008 tax return. The department testified that the tax returns were not sufficient because claimant previously stated her monthly income varied depending on how her business was doing and therefore the actual monthly verifications would be more accurate. While the monthly verifications would have been more accurate, the department did have other available information available that could have been used to make the determination.

Based upon the foregoing facts and relevant law, it is found that the department's FAP and FIP determinations are REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly closed the claimant's FAP and FIP benefits.

Accordingly, the Department's FAP and FIP eligibility determinations are REVERSED. Therefore it is ORDERED that the department re-determine eligibility for FAP and FIP benefits retroactive to the closure date of May 27, 2009 and award benefits to claimant, if appropriate. If additional verifications are still needed, it is further ORDERED that the department assist claimant in obtaining the information in accordance with this Decision.



Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 09/10/09

Date Mailed: 09/11/09

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

CL/jlg

cc:

